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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,353	09/28/2004	Bernhard Engesser	P/4302-11 (PCT)	5350

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08/08/2006

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EXAMINER

ADAMS, GREGORY W

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/509,353	Applicant(s) ENGESSER, BERNHARD	
	Examiner Gregory W. Adams	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 17-35 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/28/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the stacking shaft angled backward as in claim 28 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 17, 19-21, 26-27, 29-32 & 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Crowley (US 5,558,318).

With respect to claims 17 & 31, Crowley discloses a stacking shaft (indicated generally as 250, 384, 400), a motor driven shaft floor 40, 390, hold down devices 294, 308, push down device 252 and light barrier 284, 302 (C9/L32).

With respect to claim 19-21, Crowley discloses a slide 298, 382, 391 having a dedicated drive and linear gear.

With respect to claims 26-27, Crowley discloses rear wall strips and a vertically arranged stacking shaft.

With respect to claim 29, Crowley discloses

With respect to claim 30, Crowley discloses a stacking shaft open in an upward direction and configured to allow a packing container to be slipped over.

With respect to claim 32, Crowley discloses a stacking shaft additionally displaceable into a stand-by position.

With respect to claim 34, Crowley discloses a hold down devices 294 laterally extensible and retractable pins.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crowley in view of Forthmann, Jr. (US 3,846,960).

With respect to claim 18, Crowley does not disclose adjustable side walls. Forthmann, Jr. '960 discloses adjustable side walls (C5/L29) "in order to accommodate various sizes of labels and containers for the labels." Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Crowley's apparatus to include adjustable side walls, as per the teachings of Forthmann, Jr. '960, to accommodate various sizes of labels.

3. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crowley in view of Guerrero (US 5,415,390).

With respect to claim 22, Crowley does not disclose a toothed belt. Guerrero disclose a tooth belt 62, 64 for stacking of flat sheets against a registration surface for neat stacking. C1/L10-25. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Crowley to include a toothed belt, as per the teachings of Guerrero, for neat stacking.

4. Claims 23-25 & 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crowley in view of Forthmann, Jr. (US 3,342,013).

With respect to claims 23-25, Crowley does not disclose two guide rods and a support face. Forthmann, Jr. '013 discloses two guide rods 106 on slides and a support face for compressing labels and for packing them into containers. C1/L10. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Crowley's apparatus to include two guide rods and a support face, as per the teachings of Forthmann, Jr. '013, to compress and pack labels into containers.

With respect to claim 33, Crowley does not disclose a fixed plate rear wall. Forthmann, Jr. '013 discloses a fixed plate rear wall supporting adjustable walls for compressing labels and for packing them into containers. C1/L10. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Crowley's apparatus to include two guide rods and a support face, as per the teachings of Forthmann, Jr. '013, to compress and pack labels into containers.

5. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crowley in view of Neumann et al. (US 5,460,479).

With respect to claim 28, Crowley does not disclose a stacking shaft angled backward. Newmann et al. disclose a stacking shaft 140 angled backward to rest the forming stack against a vertical support wall for squaring. C1/L35-45. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Crowley to include a stacking shaft angled backward, as per the teachings of Newmann et al., for squaring.

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6. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crowley in view of Rimmer et al. (US 4,712,358).

With respect to claim 35, Crowley does not disclose rakes. Rimmer et al. disclose rakes 86, 88 to produce tea bags and single tea bags at a high production rate. C1/L15-35. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Crowley to include rakes, as per the teachings of Rimmer et al., for higher production and packaging.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th., 8:00-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GWA



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